



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 25 2006

OFFICE OF
CIVIL RIGHTS

RETURN RECEIPT REQUESTED
Certified Mail #7004-1160-0004-8430-7599

In Reply Refer To:
18R-05-R6

■■■■■
P.O. Box 661
Abilene, TX 79604

Re: Rejection of Administrative Complaint

Dear ■■■■■:

This letter is in reference to the administrative complaint you filed with the U.S. Environmental Protection (EPA) Office of Civil Rights (OCR), dated December 1, 2005. Your complaint alleges that the Texas Commission on Environmental Quality (TCEQ) has violated Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.* (Title VI), and EPA's regulations implementing Title VI found at 40 C.F.R. Part 7. Specifically, your complaint alleges that TCEQ discriminated against you by awarding a contract to a contractor other than yourself (after canceling the initial contract once bids were submitted, and re-advertising it without notifying the initial applicants).

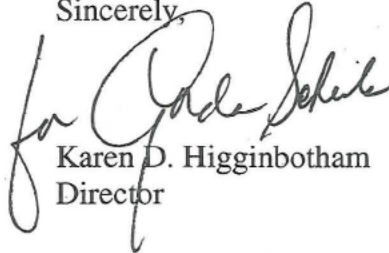
Under Title VI, a recipient of Federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI implementing regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's Title VI regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that violates EPA's Title VI regulations (i.e., an alleged discriminatory act based on race, color or nation origin). Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b). Fourth, the complaint must be against an applicant for, or a recipient of, EPA assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

After careful review, OCR has concluded that it cannot accept your complaint for investigation because it is untimely. As stated above, a complaint must be filed within 180 calendar days of the alleged discriminatory act. On April 19, 2006, OCR asked you

to clarify the date TCEQ awarded the contract to a different contractor. Your May 16, 2006, response indicated that the alleged discriminatory act (the award of the contract) occurred on January 9, 2004. However, OCR received information from TCEQ stating that the contract was awarded on March 11, 2004. Therefore, March 11, 2004, is the date of the alleged discriminatory act described in your complaint. Your complaint to OCR was dated December 1, 2005. Thus, the alleged act occurred more than 180 days before you filed the complaint. As stated previously, EPA's regulations require all Title VI complaints be filed within 180 calendar days of the alleged discriminatory act. Therefore, OCR must reject your complaint.

If you have any questions regarding this letter, please contact Ms. Karen Randolph of the OCR External Compliance Program by telephone at (202) 343-9679, via electronic mail at Randolph.Karen@epa.gov, or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460-1000.

Sincerely,



Karen D. Higginbotham
Director

Enclosure

cc: Jodena Henneke, Director
Public Assistance
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Stephen G. Pressman, Associate General Counsel
Civil Rights Law Office (MC 2399A)

Sherry Brown-Wilson, Title VI Coordinator
EPA Region 6